

REMARKS/ARGUMENTS

Following this amendment, independent claims 1, 18, and 47 remain in the present application, with claims 2, 4, 6-16, 19-22, 35-37, and 39 depending therefrom. Applicants believe that the current amendment does not introduce any new matter and, therefore, respectfully request entry of the present amendment. It is believed that all grounds for objection/rejection have been addressed through the amendment and the following remarks, and that the application is now in condition for allowance. Applicants kindly solicit reconsideration the present invention as currently claimed and allowance the claims.

Claim Objections

The Office action objected to claims 18 and 47 for claim informalities, and these minor informalities have been corrected in the amendment.

Claim Rejection Under 35 USC §112

The Office action rejected claims 1-50 under 35 USC §112, first paragraph as failing to comply with the written description requirement. Specifically, the Action objected to the terms “current sales,” “first optimal price,” and “second optimal price in real time” used in independent claims 1, 18, and 47. In response, Applicants have attempted to amend the claim to provide greater clarity. Specifically, Applicants have attempted to return the offending portions of the claims to the original content and language. Attention is drawn to FIG. 5, and the accompany text. Specifically, FIG. 5 depicts a iterative dynamic pricing method 500 in which optimal prices are selected in step 530, products are sold at the optimal price in step 550, and data from the new sales at the optimal price in step 550 are placed into the sales record. The process then repeats, forming new pricing recommendations in step 530 using the sales results from the at the previously used pricing recommendations in view of the strategic goal selections criteria provided in 540. Applicants believe that iterative pricing methods are known and accepted in the art, and thus the claim language would be sufficiently clear to allow someone of ordinary skill in pricing software to understand and implement the claimed invention. Also, claim 3 has been

cancelled to address rejection under 35 USC §112, second paragraph. Since the claims are being amended to return them to their original content *vis-à-vis* the purportedly unsupported language, it is believed that no new matter is being introduced through this amendment. Entry of the amendment is respectfully requested. If this change does not adequately address the clarity concerns raised in the Office Action, the PTO is invited to contact the Applicants' representatives below to discuss appropriate additional amendment.

Claim Rejection Under 35 USC §102(e)

The Office Action further rejected claims 1-4, 6-22, 35-39, and 47 under 35 USC §102(e) as being anticipated by US Patent No. 6,094,641 issued to Ouimet. The Office Action further indicated that claims 47-50 would be allowable over Ouimet if rewritten in independent form. Accordingly, while Applicants believe that the present invention as previously claimed is patentably distinct to Ouimet, Applicants have opted to amend the independent claims 1, 18, and 47 to incorporate, respectively, the limitations of claims 47-50. Furthermore, Applicants have cancelled claims 17 and 38 and needed to effect this change. Following this amendment, Applicants believe that the pending claims are allowable over Ouimet. Specifically, the **dynamic** pricing system and method of the present invention provides price recommendations using available data, and then modifies that price estimate with increased forecasting accuracy by incorporating the new data, as it becomes available. Moreover, the present invention's novel include a novel application of Verhulst-based statistics. These claimed aspects are not seen in the Ouimet reference.

Conclusion

In view of the foregoing, the Applicants respectfully request that the Examiner considers the above-noted amendment when the application is examined on its merits and the timely allowance of the pending claims. The Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.


US Application No. 09/859,674
Amendment After Final

If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-1349.

Respectfully submitted,

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